

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,

v.

PATRICK MICHAEL CUNNINGHAM,  
Defendant.

NO. CR01-346R

ORDER VACATING SENTENCE  
AND AUTHORIZING IMMEDIATE  
RELEASE

On December 17, 2002, this court sentenced Patrick Michael Cunningham to 78 months custody after he pled guilty to one count of Attempted Obstruction of Free Exercise of Religious Beliefs, in violation of 18 U.S.C. §§ 247 (a)(2) and (d)(3), and one count of Use of a Firearm in Relation to a Crime of Violence, in violation of 18 U.S.C. § 924(a)(1)(A)(i). Mr. Cunningham is scheduled to be released from prison on May 15, 2007.

The court has been notified by the family of Patrick Michael Cunningham that Mr. Cunningham is suffering from Amytrophic Lateral Sclerosis, or Lou Gehrig's Disease. A report dated May 20, 2004 of Dr. Michael D. Anderson, Medical Officer at the Federal Medical Center where Mr. Cunningham is incarcerated, details Mr. Cunningham's physical deterioration, stating that Mr. Cunningham has lost the use of both legs and of one arm entirely

1 and that his "life expectancy is less than a year, perhaps  
2 considerably less." The report concludes that "[f]rom a medical  
3 standpoint, I recommend we release him as soon as possible. Even  
4 at this institution, we are not prepared to care for a patient  
5 totally dependent on mechanical ventilation and we would have to  
6 transfer him to a non-BOP ventilator unit."

7 The court has also received correspondence from the family  
8 of Mr. Cunningham, and in particular from his sister. She writes  
9 of the difficulty the family is experiencing, expecting that her  
10 brother will die in prison. She reports that Mr. Cunningham has  
11 been a model prisoner while incarcerated. The court has also  
12 received correspondence from the U.S. Probation Office, recom-  
13 mending that given Mr. Cunningham's condition, he be released.  
14 The court has also contacted the U.S. Attorney's Office, which  
15 reports that neither the Department of Justice nor the victims in  
16 this case oppose Mr. Cunningham's compassionate release.

17 Upon motion by the Bureau of Prisons, the court may order  
18 the compassionate release of a prisoner under 18 U.S.C. § 3582  
19 (c)(1)(A). Under less exigent circumstances, the court would  
20 await presentation of such motion by the BOP, consider the  
21 factors (discussed above) weighing in favor of such release, and  
22 grant the motion authorizing compassionate release. The court  
23 has been advised, however, that the process of compassionate  
24 release can, in its practical application, take up to several  
25 months. Being advised that the BOP has in fact initiated the  
26 compassionate release process in Mr. Cunningham's case, and being

1 also advised that Mr. Cunningham does not have the kind of time  
2 such release has been known to take, and having considered the  
3 factors discussed above, the court finds that there are extraor-  
4 dinary and compelling reasons to warrant a reduction in Mr.  
5 Cunningham's sentence under 18 U.S.C. § 3582(c)(1)(A). **The court**  
6 **hereby vacates Mr. Cunningham's sentence imposed by this court on**  
7 **December 17, 2002 and orders the Bureau of Prisons to release Mr.**  
8 **Cunningham as soon as possible, incumbent on the Bureau of**  
9 **Prisons securing transportation arrangements, but in no case**  
10 **later than July 19<sup>th</sup>, 2004.**

11 DATED at Seattle, Washington this 13th day of July, 2004.

12  
13 s/ Barbara Jacobs Rothstein

14 UNITED STATES DISTRICT JUDGE  
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